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**APR 23 2009**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
ORLANDO et al.	:	
Application No. 10/530,849	:	LETTER REGARDING
Filed: 01/19/2006	:	PATENT TERM ADJUSTMENT
Docket No. 14503-019US1/F62948PCUS	:	

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT" filed March 3, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **137 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 3, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 201 days. On March 3, 2009, applicants submitted the instant comment. Applicants disclose that they believe that the patent term adjustment indicated on the Determination of Patent Term Adjustment appears to be longer than appropriate. Applicants direct the Office's attention to the filing of a Supplemental Information Disclosure Statement on November 11, 2008.

A review of the application history reveals that applicants are correct. On November 11, 2008, applicants submitted a supplemental reply or paper in the form of a Supplemental Information Disclosure Statement (Supplemental IDS) after filing a proper reply to the Restriction Requirement on September 8, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the Supplemental IDS. Further, a review of the Supplemental IDS, filed November 11, 2008, reveals that applicants did not include a statement under 37 CFR 1.704(d).<sup>1</sup> Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. Accordingly, the period of adjustment should have been reduced by 64 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the reply was filed, September 9, 2008, and ending on the date that the Supplemental IDS was filed, November 11, 2008.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **137 days**.

As this letter was submitted to advise the Office of an error in applicants' favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the

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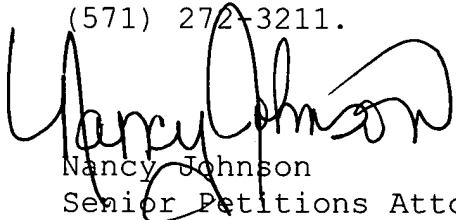
<sup>1</sup> Pursuant to 37 CFR § 1.704(d):

A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the typed name and title.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Tuesday  
Date: 4/21/2009

# PALM INTRANET

Time: 17:38:17

## PTA Calculations for Application: 10/530849

Application Filing Date:	01/19/2006	PTO Delay (PTO):	325
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	124
Post-Issue Petitions:	0	Total PTA (days):	137
PTO Delay Adjustment:	-64		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
78	04/21/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		64	
63	12/03/2008	MAIL NOTICE OF ALLOWANCE			
62	11/25/2008	ISSUE REVISION COMPLETED			
61	11/25/2008	DOCUMENT VERIFICATION			
60	11/25/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	11/25/2008	CASE DOCKETED TO EXAMINER IN GAU			
58	11/24/2008	NOTICE OF ALLOWABILITY			
57	08/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	11/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	11/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
54	11/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
53	11/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
52	10/07/2008	DATE FORWARDED TO EXAMINER			
51	09/08/2008	RESPONSE TO ELECTION / RESTRICTION FILED		94	37
50	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	09/05/2008	EMAIL NOTIFICATION			
48	09/05/2008	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
46	07/15/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
45	08/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

44	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	08/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
42	07/15/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	04/28/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	06/29/2008	DATE FORWARDED TO EXAMINER			
37.1	06/06/2008	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
37	06/06/2008	RESPONSE TO ELECTION / RESTRICTION FILED		30	32
36	06/06/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	04/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	04/28/2008	REFERENCE CAPTURE ON IDS			
33	04/28/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	02/07/2008	MAIL RESTRICTION REQUIREMENT	325		-1
31	02/04/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
30	12/26/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	06/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	09/26/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	09/21/2007	REFERENCE CAPTURE ON IDS			
24	09/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	09/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	09/12/2007	CASE DOCKETED TO EXAMINER IN GAU			
21	08/04/2007	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
19	06/26/2007	REFERENCE CAPTURE ON IDS			
18	06/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/26/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	12/26/2006	REFERENCE CAPTURE ON IDS			

14.7	12/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	12/26/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	03/30/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
12	02/08/2006	CLEARED BY OIPE CSR			
11	02/08/2006	CLEARED BY OIPE CSR			
10	02/08/2006	CLEARED BY OIPE CSR			
9	02/08/2006	CLEARED BY OIPE CSR			
8	01/19/2006	371 COMPLETION DATE			
7	01/30/2006	APPLICATION DISPATCHED FROM OIPE			
6	01/31/2006	NOTICE OF DO/EO ACCEPTANCE MAILED			
5	01/19/2006	ADDITIONAL APPLICATION FILING FEES			
4	01/19/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

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#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

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